

# COMMITTEE REPORT

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## MADAM PRESIDENT:

The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 263, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1       Page 1, between the enacting clause and line 1, begin a new
- 2       paragraph and insert:
- 3       "SECTION 1. IC 16-33-4-23 IS ADDED TO THE INDIANA CODE
- 4       AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 5       1, 2009]: **Sec. 23. (a) Notwithstanding IC 22-2-5-2, the home and:**
- 6               **(1) an employee if there is no representative described under**
- 7               **subdivision (2) or (3) for that employee;**
- 8               **(2) the exclusive representative of its certificated employees**
- 9               **with respect to those employees; or**
- 10              **(3) a labor organization representing its noncertificated**
- 11              **employees with respect to those employees;**
- 12       **may agree in writing to a wage payment arrangement.**
- 13       **(b) A wage payment arrangement under subsection (a) may**
- 14       **provide that compensation earned during a school year may be**
- 15       **paid:**
- 16              **(1) using equal installments or any other method; and**
- 17              **(2) over:**
- 18                  **(A) all or part of that school year; or**
- 19                  **(B) any other period that begins not earlier than the first**
- 20                  **day of that school year and ends not later than thirteen**
- 21                  **(13) months after the wage payment arrangement period**

1 begins.

2 Such an arrangement may provide that compensation earned in a  
3 calendar year is paid in the next calendar year, so long as all the  
4 compensation is paid within the thirteen (13) month period  
5 beginning with the first day of the school year.

6 (c) A wage payment arrangement under subsection (a) must be  
7 structured in such a manner so that it is not considered:

8 (1) a nonqualified deferred compensation plan for purposes of  
9 Section 409A of the Internal Revenue Code; or

10 (2) deferred compensation for purposes of Section 457(f) of  
11 the Internal Revenue Code.

12 (d) Absent an agreement under subsection (a), the home remains  
13 subject to IC 22-2-5-1.

14 (e) Wage payments required under a wage payment  
15 arrangement entered into under subsection (a) are enforceable  
16 under IC 22-2-5-2.

17 (f) If an employee leaves employment for any reason, either  
18 permanently or temporarily, the amount due the employee under  
19 IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned  
20 and unpaid.

21 (g) Employment with the home may not be conditioned upon the  
22 acceptance of a wage payment arrangement under subsection (a).

23 (h) An employee may revoke a wage payment arrangement  
24 under subsection (a) at the beginning of each school year.

25 SECTION 2. IC 20-21-4-4 IS ADDED TO THE INDIANA CODE  
26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
27 1, 2009]: Sec. 4. (a) Notwithstanding IC 22-2-5-2, the school and:

28 (1) an employee if there is no representative described under  
29 subdivision (2) or (3) for that employee;

30 (2) the exclusive representative of its certificated employees  
31 with respect to those employees; or

32 (3) a labor organization representing its noncertificated  
33 employees with respect to those employees;

34 may agree in writing to a wage payment arrangement.

35 (b) A wage payment arrangement under subsection (a) may  
36 provide that compensation earned during a school year may be  
37 paid:

38 (1) using equal installments or any other method; and

39 (2) over:

40 (A) all or part of that school year; or

41 (B) any other period that begins not earlier than the first  
42 day of that school year and ends not later than thirteen

1           **(13) months after the wage payment arrangement period**  
 2           **begins.**

3       **Such an arrangement may provide that compensation earned in a**  
 4       **calendar year is paid in the next calendar year, so long as all the**  
 5       **compensation is paid within the thirteen (13) month period**  
 6       **beginning with the first day of the school year.**

7           **(c) A wage payment arrangement under subsection (a) must be**  
 8       **structured in such a manner so that it is not considered:**

9               **(1) a nonqualified deferred compensation plan for purposes of**  
 10              **Section 409A of the Internal Revenue Code; or**

11              **(2) deferred compensation for purposes of Section 457(f) of**  
 12              **the Internal Revenue Code.**

13           **(d) Absent an agreement under subsection (a), the school**  
 14       **remains subject to IC 22-2-5-1.**

15           **(e) Wage payments required under a wage payment**  
 16       **arrangement entered into under subsection (a) are enforceable**  
 17       **under IC 22-2-5-2.**

18           **(f) If an employee leaves employment for any reason, either**  
 19       **permanently or temporarily, the amount due the employee under**  
 20       **IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned**  
 21       **and unpaid.**

22           **(g) Employment with the school may not be conditioned upon**  
 23       **the acceptance of a wage payment arrangement under subsection**  
 24       **(a).**

25           **(h) An employee may revoke a wage payment arrangement**  
 26       **under subsection (a) at the beginning of each school year.**

27       **SECTION 3. IC 20-22-4-4 IS ADDED TO THE INDIANA CODE**  
 28       **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
 29       **1, 2009]: Sec. 4. (a) Notwithstanding IC 22-2-5-2, the school and:**

30               **(1) an employee if there is no representative described under**  
 31               **subdivision (2) or (3) for that employee;**

32               **(2) the exclusive representative of its certificated employees**  
 33               **with respect to those employees; or**

34               **(3) a labor organization representing its noncertificated**  
 35               **employees with respect to those employees;**

36       **may agree in writing to a wage payment arrangement.**

37           **(b) A wage payment arrangement under subsection (a) may**  
 38       **provide that compensation earned during a school year may be**  
 39       **paid:**

40               **(1) using equal installments or any other method; and**

41               **(2) over:**

42                   **(A) all or part of that school year; or**

(B) any other period that begins not earlier than the first day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:

(1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or

(2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.

(d) Absent an agreement under subsection (a), the school remains subject to IC 22-2-5-1.

(e) Wage payments required under a wage payment arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.

(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned and unpaid.

(g) Employment with the school may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).

(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year."

Page 1, line 3, delete "IC 22-2-5-2," and insert "IC 22-2-5-1,".

Page 1, line 5, delete "; or" and insert "if there is no representative described under subdivision (2) or (3) for that employee;".

Page 1, line 7, after "employees;" insert "or

(3) a labor organization representing its noncertificated employees with respect to those employees;".

Page 1, line 16, delete "twelve (12)" and insert "thirteen (13)".

Page 1, line 17, after "the" insert "wage payment arrangement".

Page 2, line 3, delete "twelve (12)" and insert "thirteen (13)".

Page 2, line 12, delete "shall pay each employee:" and insert "remains subject to IC 22-2-5-1."

Page 2, delete lines 13 through 19, begin a new paragraph and insert:

"(e) Wage payments required under a wage payment

1        **arrangement entered into under subsection (a) are enforceable**  
 2        **under IC 22-2-5-2."**

3        Page 2, line 20, delete "(e)" and insert "(f)".

4        Page 2, line 21, delete "school corporation shall pay the" and insert  
 5        **"amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the**  
 6        **total amount of wages earned and unpaid."**

7        Page 2, delete lines 22 through 26, begin a new paragraph and  
 8        insert:

9        **"(g) Employment with a school corporation may not be**  
 10       **conditioned upon the acceptance of a wage payment arrangement**  
 11       **under subsection (a).**

12       **(h) An employee may revoke a wage payment arrangement**  
 13       **under subsection (a) at the beginning of each school year."**

14       Renumber all SECTIONS consecutively.

(Reference is to SB 263 as introduced.)

**and when so amended that said bill do pass .**

Committee Vote: Yeas 10, Nays 0.

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**Senator Lubbers, Chairperson**